

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**VARIAN C. CALLAHAN,**  
**Plaintiff,**

**V.**

**MICHAEL CLARK, et al.,  
Defendants.**

**C.A. No. 20-305 Erie**

**District Judge Susan Paradise Baxter**  
**Magistrate Judge Richard A. Lanzillo**

## MEMORANDUM ORDER

Plaintiff Varian C. Callahan, an inmate formerly incarcerated at the State Correctional Institution at Albion, Pennsylvania ("SCI-Albion"), brings this action to recover damages and other relief for alleged violations of his rights under the first and eighth Amendments to the United States Constitution pursuant to 42 U.S.C. § 1983, the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101, *et seq.*, and Section 504 of the Rehabilitation Act of 1973 ("Rehab Act"), 29 U.S.C. § 794. This matter was referred to Chief United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

All of Plaintiff's claims arise from alleged deficiencies in the medical care Plaintiff received at SCI-Albion. Defendants include, *inter alia*, the Pennsylvania Department of Corrections ("DOC"), Joseph Silva, Director of the Bureau of Health Care Services, and the following DOC employees staffed at SCI Albion: Michael Clark, Superintendent; Jeri Smock, SCI-Albion's Chief Healthcare Administrator; Ruth Wisniewski, Licensed Practical Nurse (all of

the foregoing Defendants are collectively referred to as “DOC Defendants”).<sup>1</sup> The operative pleading in this case is Plaintiff’s second amended complaint, which was filed on September 18, 2023 [ECF No. 80].

On October 2, 2023, after filing an answer to Plaintiff’s second amended complaint [ECF No. 82], the DOC Defendants filed a motion for partial judgment on the pleadings [ECF No. 83], seeking dismissal of Plaintiff’s Eighth Amendment claim against Defendant Wisniewski. The motion was fully briefed by the parties.

On March 27, 2024, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation (“R&R”) recommending that the DOC Defendants’ motion be denied. [ECF No. 92]. Objections to the R&R were due by April 10, 2024; however, no objections have been filed.

After *de novo* review of the relevant documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 15th day of April, 2024;

IT IS HEREBY ORDERED that the DOC Defendants’ motion for partial judgment on the pleadings [ECF No. 83] is DENIED. The report and recommendation of Chief Magistrate Judge Lanzillo, issued March 27, 2024 [ECF No. 92], is adopted as the opinion of the court.

  
SUSAN PARADISE BAXTER  
United States District Judge

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The other named Defendants are Wellpath LLC f/k/a Correct Care Solutions, LLC (“Wellpath”), a private entity under contract the DOC to provide healthcare services to DOC inmates, and the following Wellpath employees: Morgan Oliver, Dr. Rekha Halligan, Physician Assistant (“PA”) Matthew Riley, and an unnamed optometrist identified as “Jane Doe.”

cc: The Honorable Richard A. Lanzillo  
Chief U.S. Magistrate Judge

all parties of record